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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/526,665

03/04/2005

Raimo Liukko

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EXAMINER

STULII, VERA

ART UNIT

PAPER NUMBER

1761

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
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3 MONTHS

04/05/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/526,665

Applicant(s)

LIUKKO, RAIMO

Examiner

Vera Stulii

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 6/24/06
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-40 is/are pending in the application.
- 4a) Of the above claim(s) 9-23 and 27-40 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8 and 24-26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. _____.
 - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

The Examiner of this application has changed. Please direct all further correspondence to Examiner Vera Stulii, AU1761.

Election/Restrictions

Applicant's election with traverse of Group I in the reply filed on 06/22/2006 is acknowledged. The traversal is on the ground(s) that the claims "do in fact possess unity of invention" (p.2 of Reply to the Office action). This is not found persuasive for the following reasons. As evidenced by the prior art the product claim does not provide any contribution to the prior art. Second, The process limitations ⁱⁿ the product claim are not taken in consideration for patentability. Therefore, for purposes of restriction the claimed product comprises at least 60% water and starch from 2 to 70%.

The requirement is still deemed proper and is therefore made FINAL.

Claim Rejections - 35 USC § 102

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim 1-8 and 24-26 rejected under 35 U.S.C. 102(b) as being anticipated by O'Rourke (US 4,215,152) for the reasons set forth in the last office action.

Response to Arguments

Applicant's arguments filed on 06/22/2006 have been fully considered but they are not persuasive.

Regarding Applicant's argument that the prior art product is made from starch per se, it is noted that the claim is directed to a product that includes starch and water. It is

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submitted that O'Rourke teaches a jelly edible product as claimed, that is, the jelly product comprising starch and water.

Regarding applicant's argument that the Examiner refers to a slurry, rather than starchy vegetable material, it is noted that starch is derived from vegetables. In addition the claimed amount of water would have made the slurry of O'Rourke. Applicant is reminded that corn and potato are art recognized vegetables. There is no distinction between plant source of starch claimed and disclosed by O'Rourke. The scope of the claims does not exclude the potatoes taught by O'Rourke since the reference teaches starch from vegetable origin.

In regard to Applicant's arguments that "O'Rourke also does not disclose that "the amylose of the starchy vegetable material is dispersed into amylose particles under 10 μ m in size within the amylopectin of the starchy vegetable material" as recited in the rejected claims. To the contrary, in the product of O'Rourke the amylopectin and amylose appear to remain within the starch granule, meaning that the amylopectin and amylose would be unchanged as compared to native starch", it is noted that incorporation of process steps into the product claim does not lead to a patentable distinction. There is no evidence that the gelly product of O'Rourke is different from the claimed.

Regarding Applicant's arguments related to rejection of claims 3-5 and 25-26, the arguments are not persuasive for the reasons set forth in the previous Office action.

Regarding Applicant's arguments related to rejection of claim 24, it is noted that starch is a mixture of amylase and amylopectin, therefore size of amylase or amylopectin particles would be smaller than the size of starch particles.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vera Stulii whose telephone number is (571) 272-3221. The examiner can normally be reached on 7:00 am-3:30 pm, Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano can be reached on (571) 272-1398. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Vera Stulii 


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